

**DEPARTMENT
POLICY****FAP Only**

This item applies only to non-categorically eligible FAP groups that have a member who is FAP disqualified, see BEM 213.

Definitions

Indigent Alien means a sponsored alien who is unable to obtain food and shelter because the sum of the sponsored alien's income and that of the sponsor's income and contributions are less than 130 percent of the poverty income guideline for the household size; see "Determining Deemed Amounts" in this item.

INA refers to the Immigration and Nationality Act.

USCIS refers to the U.S. Citizenship and Immigration Services, formerly Bureau of Citizenship and Immigration Services (BCIS) or Immigration and Naturalization Service (INS).

A **sponsor** is a person and the person's spouse who has executed USCIS form I-864, I-864A or I-864EZ on or after December 19, 1997, agreeing to financially support an alien as a condition of the alien's entry into the U.S. for permanent residence.

A **sponsored alien** is an alien for whom the above agreement of financial support is made.

Date of entry, established by USCIS, is the date the sponsored alien was admitted into the U.S. for permanent residence.

Deemed income means a financial resource that is considered available to the sponsored alien without proof of an actual contribution.

Note: Sponsors' assets will be deemed only to non-categorically eligible households.

Overview

The income and assets of both the sponsor and their spouse must be considered in determining eligibility and benefit level until:

- The alien gains U.S. citizenship.
- Has earned 40 qualifying work quarters.

- A portion of the sponsor's income might be deemed available to the alien; see Determining Deemed Amounts in this item.

Consider the deemed amounts available to the sponsored alien even if the sponsor:

- Does **not** make an actual contribution to the alien.
- Gives up sponsorship responsibilities.

Exception: Indigent Aliens; see Income Test.

If the alien changes sponsors, evaluate the new sponsor's income and assets. Deeming ceases for the earlier sponsor.

The names of all aliens a sponsor is responsible for must be provided at application and redetermination. If the sponsored aliens are in separate FAP groups, divide the total deemable income equally among the groups. If no other names are provided, attribute the total deemable amounts to the alien applicant.

Exempt Aliens

The income and assets of the alien sponsor must be evaluated for all sponsored aliens **except** the following:

- Any alien who is under age 18.
- Battered alien spouse or alien parent of a battered child for 12 months after battery is determined by USCIS or the state agency. The battered alien must not live with the batterer.
- Aliens admitted into the U.S. as refugees under INA section 212(d)(5) or 207.
- Aliens granted political asylum under INA section 208.
- Aliens granted withholding of deportation per INA section 243(h).
- Aliens admitted as conditional entrant refugees before April 1, 1980 under INA section 203(a)(7).
- Aliens granted permanent resident status under INA section 245A or 210 (class code S16, S26, W16, W26 or W36 on the I-551).
- An indigent alien.

- Aliens whose sponsor signed the agreement of support before December 19, 1997.
- Aliens who are a member of their sponsor's FAP household.
- Disqualified sponsored alien.

Determining Deemed Amounts

Evaluate the income and assets of the sponsor **and** their spouse if they live together. This applies even if they were not married when the agreement was signed.

Use a DHS-2411, Statement of Sponsor's Resources, to obtain information about a sponsor.

To determine deemed income, see BEM 550.

Deeming ceases if the sponsor dies, regardless of a surviving spouse and/or estate.

Income Test

The sponsor's income deemed to be available to the sponsored alien is counted as income to the alien's group.

If the sponsored alien has been determined to be indigent; see Definitions, deem only that amount of income that is actually provided. Continue to deem this amount for 12 months. Determine indigence every 12 months. Send indigence determinations to the U.S. Attorney General's Office at:

U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530-0001

Provide the sponsor's name and the sponsored alien's name.

Note: The sponsored alien must provide written consent before any information is released to the Attorney General or the alien's sponsor. However, the specialist must notify the sponsored alien of the consequences of refusing to provide consent; see Refusing Information below.

Reporting Changes

All sponsored aliens must report sponsor information at the following times:

- At application and redetermination.
- At a change in sponsor.
- When income of the sponsor or sponsor's spouse changes, including loss of employment.
- Upon death of the sponsor or sponsor's spouse.

Refusing Information

If requested information about a sponsor is **not** provided, one of the following applies:

- If the sponsored alien is cooperating, treat him as disqualified.
- If the sponsored alien is **not** cooperating, another adult group member must cooperate. If none do, **all** group members are ineligible, even if they are U.S. citizens.

Overissuance

The sponsor and alien are jointly responsible for a benefit overissuance due to inaccurate or incomplete information regarding the sponsor's income or assets.

Exception: The alien is solely responsible **if** the sponsor had good cause or was without fault.

BAM 715 explains recoupment procedures for active and closed cases.

Initiate recoupment from the group which received the overissuance. However, repayment can be made by the group, the sponsor, or both.

If both parties repay **and** the total exceeds the overissuance, the excess must be refunded in proportion to the amount paid by each party.

**VERIFICATION
REQUIREMENTS**

The sponsored alien must provide, or assure that the sponsor provides, necessary information and verification.

The alien must report any change in the sponsor's circumstances.

Verify a sponsor's claim of sponsoring aliens in different FAP groups.

Record the alien's place of birth and alien registration number in the case.

LEGAL BASE**FAP**

7 CFR 273.4(c)
7 CFR 273.11(h)
7 USC 2014